

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

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*Attorneys for Plaintiff The SCO Group, Inc.*

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-  
Defendant,

vs.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-  
Plaintiff.

**THE SCO GROUP'S RULE 56(f)  
MOTION IN FURTHER  
OPPOSITION TO IBM'S MOTION  
FOR PARTIAL SUMMARY  
JUDGMENT**

**Civil No. 2:03CV0294 DAK**

**Honorable Dale A. Kimball**

**Magistrate Judge Brooke Wells**

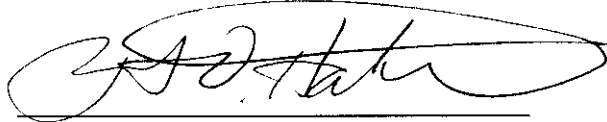
Plaintiff/Counterclaim-Defendant The SCO Group, Inc. ("SCO") hereby moves the Court for an Order denying Defendant/Counterclaim-Plaintiff International Business Machines Corporation's ("IBM") Motion for Partial Summary Judgment or, alternatively, for an Order continuing consideration of IBM's Motion until sufficient discovery has been conducted. SCO's Rule 56(f) Motion is based on the following grounds:

195

As set forth in SCO Memorandum and accompanying declarations, SCO has not had sufficient time since IBM filed its counterclaim to analyze the millions of lines of Linux source code, to compare it to UNIX source code, and to trace the genealogy, ownership, registration and licensing of that code. SCO has also not received discovery essential to oppose IBM's motion, nor even basic discovery that would permit SCO simply to efficiently identify targets for future, focused discovery and efficient investigation of facts to oppose IBM's motion. Without such basic discovery, SCO's investigation for non-literal copying would be made much slower and more inefficient than would otherwise be necessary. SCO has not even been given the basic, Court-ordered discovery on which SCO has now been required to renew a motion to compel necessary to permit SCO to build and prioritize its investigation of non-literal copying into Linux.

This Motion is supported by the Rule 56(f) Declaration of John K. Harrop, the declarations of Christopher Sontag and Sandeep Gumptra and SCO's Memorandum in Opposition to IBM's Motion for Partial Summary Judgment and in Support of SCO's Rule 56(f) Motion.

DATED this 8<sup>th</sup> day of July, 2004.



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**CERTIFICATE OF SERVICE**

Plaintiff, The SCO Group, hereby certifies that a true and correct copy of **THE SCO GROUP'S RULE 56(f) MOTION IN FURTHER OPPOSITION TO IBM'S MOTION FOR PARTIAL SUMMARY JUDGMENT** served on Defendant International Business Machines Corporation on the 9th day of July, 2004, as follows:

**BY HAND DELIVERY:**

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A handwritten signature in dark ink, appearing to read "Alan L. Sullivan", is written over a horizontal line.